

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the **PATENT APPLICATION** of:

Westhoff et al.

Application No.: 09/395,106

Confirmation No.: 5428

Filed: September 14, 1999

For: MANHOLE STEP INSERT FOR
PREVENTING SEEPAGE DURING
MANUFACTURE OF A CAST MEMBER AND
TO PROVIDE A STEP INSERT HAVING
INCREASED STRUCTURAL AND HOLDING
STRENGTH

Group: 3637

Examiner: Phi Dieu Tran A

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OCT 15 2004

Our File: GROUP 3600

Date: October 6, 2004

REPLY BRIEF TO EXAMINER'S ANSWER

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the rejection of claim 41 based on Brooks under 35 U.S.C. §102, there is **no** exterior surface having a portion which lies in a plane inclined to said longitudinal axis. A plane aligned with the exterior surface would be tangential to a curved surface to define a straight line and only a straight line (and **not** a portion of a surface) would lie in the plane.


In response to the rejection of claims 21-26, 45 and 46 based on Brooks and Summerlin under 35 U.S.C. §103(a), the flange 2 of Brooks is a frusto-conical shaped flange and does not lie in a plane. A curved surface cannot lie **in** a plane.

Regarding claim 22, the "ears" 6 of Brooks do not cooperate with a flange to embrace a marginal portion surrounding an opening. It is also important to note that the Examiner's Answer fails to identify the "flange" that cooperates with the ears 6. Summerlin et al. lacks the features lacking in Brooks.

Claim 23 recites a flange which covers an opening to prevent seepage. Flange 2 of Brooks does **not** cover an opening. Flange 6 of Brooks is closed over by a board as shown in Figure 1.

Respectfully submitted,

Westhoff et al.

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